

**OAKTREE LAW**

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Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

OKECHUKWU OBIOMA UKAEGBE,

Plaintiff,

Vs.

SELECT PORTFOLIO SERVICING, INC.,  
a Utah Financial institution; BANK OF  
AMERICA, N.A., a Delaware Financial  
Institution; NATIONAL DEFAULT  
SERVICIG CORPORATION, an Arizona  
Financial Institution; and DOES 1 TO 100,  
Inclusive,

Defendants.

Case no.: 2:15-cv-03584-CAS-JEM

**NOTICE OF RULING ON  
MOTION TO WITHDRAW AS  
ATTORNEY OF RECORD FOR  
PLAINTIFF**

Date: March 7, 2016

Time: 10:00 a.m.

Ctrm: 5 – 2d Floor

The Hon. CHRISTINA A. SNYDER  
United States District Court Judge

The motion of Oaktree Law for an order permitting it to withdraw as attorney of record herein for plaintiff, Okechukwu Obioma Ukaegbe came on for hearing on March 7, 2016, at 10:00 a.m. in Courtroom 5 of the United States District Court for the Central District of California, before the Honorable Christina A. Snyder.

Larry Fieselman appeared on behalf of Oaktree Law. There were no other appearances.

Having reviewed the moving, opposition and reply papers, as well as other documents on file herein, and having found that Oaktree Law has adequately

1 demonstrated there is good cause for withdrawal and that neither plaintiff nor defendants  
2 will be unfairly prejudiced by such withdrawal, the Court granted the motion.

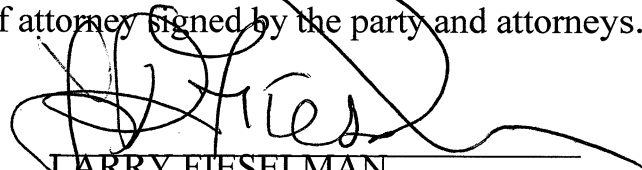
3 A copy of the Therefore, the motion is granted.

4 Oaktree shall advise plaintiff that, in accordance with the Court's February 19,  
5 2016, OSC, his failure to prosecute this case may result in dismissal of this action. A  
6 copy of Oak Tree Law's February 22, 2016, letter to plaintiff, with a copy of the Court's  
7 February 19, 2016, ruling and Order to Show Cause is attached hereto as Exhibit "1".

8 A copy of the Court's ruling on March 7, 2016, is attached hereto as Exhibit "2".

9 Plaintiff is advised, pursuant to Local Rule 83-2.3.2, "when an attorney of record  
10 for any reason ceases to act for a party, such party must appear pro se or appoint another  
11 attorney by a written substitution of attorney signed by the party and attorneys."

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13 Dated: March 15, 2016.

  
14 LARRY FIESELMAN  
Former Attorney for Plaintiff

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# **EXHIBIT "1"**

**OAKTREE LAW**

*Attorneys at Law*  
10900 183<sup>rd</sup> Street, Suite 270  
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Telephone: (562) 741-3938  
Facsimile: (562) 264-1496

January 22, 2016

OKECHUKWU OBIOMA UKAEGBE  
1467 East Abbotson Street  
Carson CA 90746

Re: Ukaegbe vs. Select Portfolio Servicing  
Case no. 2:15-ev-03584-CA(JEMx)

Dear Mr. Ukaegbe:

We have been trying to contact you for the past several weeks but you have ignored our telephone calls and emails.

On February 19, 2016, opposing counsel appeared, ex parte, in the District Court. A copy of the court's ruling is enclosed herewith. Please pay particular attention to the first sentence in paragraph 1, which reads as follows: PLAINTIFF IS HEREBY ORDERED TO SHOW CAUSE VIA THE FILING OF A WRITTEN RESPONSE, ON OR BEFORE MARCH 21, 2016, WHY THIS ACTION SHOULD NOT BE DISMISSED FOR FAILURE TO PROSECUTE.

Please contact me at your very earliest convenience to discuss your intentions in this matter and to allow us to prepare a timely written response.

Failure to provide a written response, as required by the order will most likely result in your case being dismissed with prejudice which means you will be forever barred from bringing the action again.

Please govern your actions accordingly.

Yours very truly,

OAKTREE LAW

by:

  
LAWRENCE R. FIESELMAN

Encl.

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

**CIVIL MINUTES - GENERAL**

‘O’

Case No. 2:15-cv-03584-CAS(JEMx) Date February 19, 2016

Title OKECHUKWU OBIOMA UKAEGBE V. SELECT PORTFOLIO  
SERVICING, INC, ET AL.

Present: The Honorable CHRISTINA A. SNYDER

Catherine Jeang

Not Present

N/A

Deputy Clerk

Court Reporter / Recorder

Tape No.

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

Not Present

Not Present

**Proceedings:** (IN CHAMBERS) - DEFENDANT’S UNOPPOSED EX PARTE APPLICATION FOR AN ORDER (1) TO SHOW CAUSE RE DISMISSAL FOR FAILURE TO PROSECUTE; (2) CONTINUING DATES AND DEADLINES INCLUDING TRIAL; AND (3) COMPELLING PLAINTIFF’S ATTENDANCE AT DEPOSITION (Dkt. 25, filed February 17, 2016)

The Court is in receipt of defendants Select Portfolio Servicing, Inc. (“SPS”) and National Default Servicing Corporation (“NDSC”) (collectively, “defendants”) ex parte application. Dkt. 25. In this application, defendants request that the Court issue an order: (1) to show cause why this litigation should not be dismissed with prejudice for plaintiff’s failure to prosecute; (2) continuing dates and deadlines, including trial; and (3) compelling plaintiff’s attendance at a deposition. Id. Defendants state that this application “is brought on the ground that after Defendants worked this case up and prepared for mediation, deposition, and summary judgment, Plaintiff abruptly disappeared and refuses to participate in the litigation of this case.” Id. at 1. In particular, defendants note that plaintiff failed to appear for court-ordered mediation on February 10, 2016, refuses to communicate with his own counsel, and that, due to plaintiff’s disappearance, plaintiff’s deposition noticed for February 23, 2016 will not be going forward. Id. In addition, on February 8, 2016, plaintiff’s counsel filed a motion to withdraw as counsel. Dkt. 20. Having considered defendant’s arguments, the Court finds and concludes as follows:

1. Plaintiff is hereby ordered to show cause via the filing of a written response, on or before March 21, 2016, why this action should not be dismissed for failure to prosecute. Plaintiff is warned that his failure to provide a satisfactory response

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

**CIVIL MINUTES - GENERAL**

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<b>Case No.</b>	2:15-cv-03584-CAS(JEMx)	<b>Date</b>	February 19, 2016
<b>Title</b>	OKECHUKWU OBIOMA UKAEGBE V. SELECT PORTFOLIO SERVICING, INC, ET AL.		

may result in the dismissal of this action. Counsel for plaintiff is ordered to promptly deliver a copy of this order to plaintiff.

2. The Court grants defendants’ request for an eight week continuance of the dates and deadlines set forth in the Court’s scheduling order entered September 28, 2016. Dkt. 14. This brief extension will permit the Court and the parties to resolve the pending motion to withdraw filed by plaintiff’s counsel and the order to show cause. The dates and deadlines are amended as follows:
  - a. The fact discovery cut-off is extended from February 26, 2016 to April 22, 2016. Notwithstanding this extension, the only fact discovery that shall be permitted after February 26, 2016 shall be Plaintiff’s deposition.
  - b. The deadline to file motions is extended from April 22, 2016 to June 17, 2016.
  - c. The pre-trial conference and hearing on motions *in limine* is continued from June 20, 2016 to August 15, 2016, at 11:00 a.m.
  - d. The trial is continued from August 2, 2016 to September 27, 2016.
3. The Court declines at this juncture to issue an order compelling plaintiff’s attendance at a deposition and defers to the magistrate judge assigned to this case the question of whether an order to compel should issue.

In accordance with the foregoing, the Court **GRANTS in part and DENIES in part** defendant’s ex parte application.

IT IS SO ORDERED.

Initials of Preparer

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## **EXHIBIT "2"**

NOTICE OF RULING ON MOTION TO WITHDRAW AS COUNSEL FOR PLAINTIFF



UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

**CIVIL MINUTES - GENERAL**

‘O’

Case No. 2:15-cv-03584-CAS(JEMx) Date March 7, 2016

Title OKECHUKWU OBIOMA UKAEGBE V. SELECT PORTFOLIO  
SERVICING, INC, ET AL.

Present: The Honorable CHRISTINA A. SNYDER

Catherine Jeang

Laura Elias

N/A

Deputy Clerk

Court Reporter / Recorder

Tape No.

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

Larry Fieselman

Kristapor Vartanian

**Proceedings:** MOTION OF OAKTREE LAW TO WITHDRAW AS  
ATTORNEY OF RECORD FOR PLAINTIFF (Dkt. 20, filed  
February 8, 2016)

## I. INTRODUCTION AND BACKGROUND

On April 9, 2015, plaintiff Okechukwu Obioma Ukaegbe (“plaintiff”) filed the instant action the Los Angeles County Superior Court against defendants Select Portfolio Servicing, Inc. (“SPS”), National Default Servicing Corporation (“NDS”), and Bank of America, N.A. (“Bank of America”) (collectively “defendants”). Dkt. 1. On May 13, 2015, defendants removed this action to federal court, asserting diversity jurisdiction. See id. Plaintiff’s nine claims arise out of defendants’ alleged efforts to initiate and complete non-judicial foreclosure proceedings against his property.<sup>1</sup> See generally Compl.

On February 8, 2016, Oaktree Law (“Oaktree” or “Counsel”) filed a motion to withdraw as plaintiff’s attorney of record. Dkt. 20 (“Motion”). On February 16, 2016, defendants SPS and NDS filed an opposition to Oaktree’s motion. Dkt. 23 (“Opp’n”). On February 17, 2016, Oaktree filed a reply. Dkt. 24 (“Reply”).

On February 19, 2016, following defendants’ filing of an unopposed ex parte application, the Court issued an order to show cause via the filing of a written response, on or before March 21, 2016, why this action should not be dismissed for failure to

<sup>1</sup> On August 26, 2015, defendant Bank of America was dismissed from this action, with prejudice, following its settlement of all claims asserted against it. See dkts. 9-11.



UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

**CIVIL MINUTES - GENERAL**

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prosecute. Dkt. 26. In its OSC, the Court “warned [plaintiff] that his failure to provide a satisfactory response may result in the dismissal of this action,” and further ordered counsel for plaintiff “to promptly deliver a copy of this order to plaintiff.” *Id.* In its order, the Court also granted defendants’ request for an eight week continuance of the dates and deadlines set forth in the Court’s initial scheduling order, in order to “permit the Court and the parties to resolve the pending motion to withdraw filed by plaintiff’s counsel and the order to show cause.”<sup>2</sup> *Id.*

The Court held oral argument on March 7, 2016. Having carefully considered the parties’ arguments, the Court finds and concludes as follows.

## II. DISCUSSION

Local Rule 83–2.3.2 allows an attorney to withdraw as counsel only upon leave of court. If withdrawal will cause delay in the case, the court will not allow the attorney to withdraw unless “good cause is shown and the ends of justice require [such relief].” L.R. 83–2.3.5. If withdrawal is allowed, the affected parties then “shall appear pro se or appoint another attorney by a written substitution of attorney.” L.R. 83–2.3.3. However, the motion for leave to withdraw must be supported by “good cause;” notably, “[f]ailure of the client to pay agreed compensation is not necessarily sufficient to establish good cause.” L.R. 83–2.3.2.

Attorney Larry Fieselman of Oaktree Law states in a declaration that he and his firm have served as counsel of record for plaintiff in the above-referenced case. Declaration of Larry Fieselman at ¶¶ 1-3. Fieselman asserts that “the attorney-client relationship has broken down and cannot be repaired” because, *inter alia*, (1) “plaintiff has not provided [Counsel] with requested documents necessary to properly represent him in the ongoing proceeding,” and (2) “[t]here is an outstanding balance owing from plaintiff to the firm and fees will substantially increase from this point forward.” *Id.* at ¶¶ 4, 7. Fieselman further states that plaintiff has “missed his last appointment and is not

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<sup>2</sup> In its order, the Court also “decline[d] at this juncture to issue an order compelling plaintiff’s attendance at a deposition and defer[red] to the magistrate judge assigned to this case the question of whether an order to compel should issue.” Dkt. 26.

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

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<b>Title</b>	OKECHUKWU OBIOMA UKAEGBE V. SELECT PORTFOLIO SERVICING, INC, ET AL.		

returning [counsel’s] telephone calls.” Id. at ¶ 6. In his motion, Fieselman asserts that “plaintiff has rejected [the firm’s advice] regarding the pending case, instead directing counsel to proceed in a manner counsel believes is inappropriate under the circumstances and contrary to existing law.” Motion at 1.

In an opposition filed before this Court issued an OSC on February 19, 2016, defendants SPS and NDS (1) argue that Oaktree should not be permitted to withdraw as plaintiff’s attorney of record, and (2) make a (now-mooted) request that this Court issue an OSC why this action should not be dismissed for failure to prosecute. See Opp’n. Defendants state that plaintiff “has done nothing to work this case up and has entirely abandoned the prosecution of the case, to such an extent that he failed to appear for the Court mandated mediation [on February 10, 2016] and will not be appearing for his properly noticed deposition [on February 23, 2016].” Opp’n at 4. Defendants argue that “[i]f Oaktree is now permitted to withdraw at the eleventh hour, [d]efendants will essentially have no opposing litigant to assist in bringing this case to a timely resolution, thus interfering with the orderly administration of justice.” Id. at 1. In a reply, Oaktree contends that trial in this matter is nearly five months away and therefore plaintiff will have ample opportunity to secure replacement counsel, should he choose to do so. Oaktree further avers that even if it is permitted to withdraw, defendants can nonetheless seek to have the case dismissed for plaintiff’s failure to prosecute (e.g., for plaintiff’s failure to appear at both mediation sessions and depositions). See Reply.

For the reasons outlined in Fieselman’s declaration, and in light of the Court’s issuance of the aforementioned OSC on February 19, 2016, the Court finds that Oaktree has adequately demonstrated good cause for their withdrawal and that neither plaintiff nor defendants will be unfairly prejudiced by such withdrawal. Oaktree is hereby ordered to provide plaintiff with notice of this Court’s order in accordance with Local Rule 83-2.3. Oaktree is further ordered to advise plaintiff that, in accordance with Local Rule 83-2.3.2, “[w]hen an attorney of record for any reason ceases to act for a party, such party must appear pro se or appoint another attorney by a written substitution of attorney signed by the party and the attorneys.” In addition, Oaktree shall again advise plaintiff that, in accordance with the Court’s February 19, 2016 OSC, plaintiff’s failure to prosecute this case may result in its dismissal. In doing so, Oaktree shall attach a copy of this order, and shall otherwise comply with all applicable rules of professional responsibility.

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

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Title	OKECHUKWU OBIOMA UKAEGBE V. SELECT PORTFOLIO SERVICING, INC, ET AL.		

**III. CONCLUSION**

In accordance with the foregoing, Oaktree Law’s motion to withdraw as counsel of record for plaintiff Okechukwu Obioma Ukaegbe is hereby **GRANTED**.

IT IS SO ORDERED.

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Initials of Preparer	CMJ		

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5 **PROOF OF SERVICE**

6 I am over the age of 18 years and not a party to this action. My business address is  
7 10900 183<sup>rd</sup> Street, Suite 270, Cerritos CA 90703.

8 On March 15, 2016, I served the foregoing document entitled **NOTICE OF**  
9 **RULING ON MOTION TO WITHDRAW AS ATTORNEY OF RECORD FOR**  
10 **PLAINTIFF** on the interested parties in this action at the address(es) set forth in the  
11 attached *SERVICE LIST*, by the following means:

12 **BY HAND DELIVERY:** By causing a true copy thereof, enclosed in a  
13 sealed envelope, to be delivered by hand to the address(es) shown below.

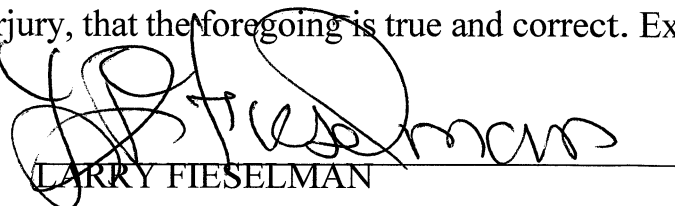
14 **XX BY MAIL:** By placing each envelope (with proper postage affixed  
15 thereto) in the United States Mail at 10900 183<sup>rd</sup> Street, Suite 270, Cerritos CA 90703. I  
16 am readily familiar with the firm's practice for collection and processing of  
17 correspondence for mailing with the U.S. Postal Service and in the ordinary course of  
18 business, correspondence would be deposited with the U.S. Postal Service the same day it  
19 is placed for collection and processing.

20 **BY OVERNIGHT MAIL:** By placing with Federal Express for delivery a  
21 true copy thereof, enclosed in a sealed envelope, to the address(es) shown below, with  
22 delivery charges to be billed to Oak Tree Law

23 **BY FACSIMILE TRANSMISSION:** By transmitting a true copy thereof  
24 by facsimile transmission from Oak Tree Law to the following facsimile number(s):

25 **BY ELECTRONIC SERVICE:** A copy of the above-referenced document  
26 was transmitted by electronic mail ("email") transmission, which transmission was sent at  
27 approximately . m. on , 2016 to the parties and at the  
28 email address(es) listed in the attached *SERVICE LIST*.

I declare, under penalty of perjury, that the foregoing is true and correct. Executed  
at Cerritos CA on March 15, 2016.

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LARRY FIESELMAN

**SERVICE LIST**

SHANNON J. MCGINNIS, ESQ.

JEFFREY N. WILLIAMS, ESQ.

WARGO & FRENCH LLP

1888 Century Park East, Suite 1520

Los Angeles CA 90067

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